*THE HON'BLE SRI JUSTICE P.S.NARAYANA

+W.P.No.21068 of 2004 & W.P.No.18224 of 2005

% 3-12-2007

Power Grid Employees Union,
Represented by its President
E.Tata Rao .. Petitioner

And

$ Power Grid Corporation of India Ltd.,
MCH Complex, R.P. Road,
Secunderabad represented by its
Deputy General Manager (HRM)
and others ..
Respondents

<GIST:

<HEAD NOTE:

! Counsel for petitioner in W.P.No.21068/2004 : Sri

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.21068 of 2004 & W.P.No.18224 of 2005

Date : 3-12-2007

W.P.No.21068/2004

Between :

Power Grid Employees Union,
Represented by its President
E.Tata Rao .. Petitioner

And

Power Grid Corporation of India Ltd.,
MCH Complex, R.P. Road,
Secunderabad represented by its
Deputy General Manager (HRM)
and others ..
Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.21068 of 2004 & W.P.No.18224 of 2005

COMMON ORDER:

1. 3rd respondent in W.P.No.21068/2004 filed W.P.No.18224 of 2005. In view of the fact that both these Writ Petitions are concerned with the same Trade Union, both these Writ Petitions are being disposed of by this Common Order.

2. This Court issued *rule nisi* in W.P.No.21068/2004 on 28-12-2004 and in W.P.No.18224/2005 *rule nisi* was issued on 18-8-2005.

3. Sri Krishna Murthy, the learned Counsel representing the writ petitioner in W.P.No.21068/2004 had taken this Court through the contents of the affidavit filed in support of the Writ Petition and would maintain that

there is only one Union and the dispute is within the Union. The learned Counsel also would maintain that no doubt the term of three years was over, but however the office bearers are continuing in view of the extended period and in the interest of workers and members of the Union concerned, a representative who has to participate in the meetings may have to be decided. The learned Counsel also would submit that since the three years period already had lapsed and further one year extension had been given, the same situation would be repeated even after the expiry of extended period and hence let the 2nd respondent conduct elections so that the person who may have to duly represent at the meetings also may be decided in the light of the majority vote at the elections. The Counsel also placed reliance on certain decisions.

4. Sri M.S. Rama Chander Rao, the learned Counsel representing the 1st respondent-Power Grid Corporation of India Limited would maintain that in the light of the rivalry between the two persons, the President and the General Secretary, within the same Union, the management is not interested who should represent at the meeting s in between those two persons. Further, the Counsel would contend that the 2nd respondent, the Registrar of Trade Unions also is not competent to hold

elections of the Trade Union as such. The Counsel also would maintain that when such factual issues are involved, since there is no remedy even under the Trade Union Act 1926 or the Rules made thereunder, these parties may have to approach a competent Civil Court to have their disputes resolved in accordance with Law. The learned Counsel placed reliance on certain decisions to substantiate his submissions.

5. Sri G.Ravi Mohan, the learned Counsel representing the 3rd respondent in W.P.No.21068/2004 and the writ petitioner in W.P.No.18224/2005 would maintain that this is not a case concerned with the dispute between the management and the Union or a case of any dispute between two Unions as such. This is a dispute between the President and the Secretary of the self-same Union. The elections to be within the Union and the same to be decided by following the democratic principles and members of the Union alone are competent to decide for themselves in relation thereto and none else can interfere. In such a case, there is no specific provision governing the situation either under the Trade Union Act 1926 or the Rules made thereunder. However, the learned Counsel would submit that in the peculiar facts and circumstances of the case, the 3rd respondent in

W.P.No.21068/2004 who is the writ petitioner in W.P.No.18224/2005, being placed on a better footing, suitable directions be issued in the latter W.P.No.18224/2005. The learned Counsel also explained under what circumstances the writ petitioner was inclined to approach this Court in W.P.No.18224/2005.

6. Heard the Counsel and perused the records.

7. The Power Grid Employees Union, Registered No.1576, represented by its President filed W.P.No.21068/2004 praying for a Writ of Mandamus directing the 1st respondent i.e., Power Grid Corporation of India Limited, M.C.H. Complex, R.P. Road, Secunderabad, A.P., represented by Deputy General Manager (Human Resources Management) to recognize the petitioner-Union and its Executive Committee and allow the representatives elected by the petitioner-Union to represent in the Bipartite Meetings in all levels after calling for the records and to pass such other suitable orders. Sri E.Tata Rao, the President of the petitioner-Union had sworn to the affidavit filed in support of the Writ Petition. The petitioner-Union is a Trade Union registered under the Trade Union Act with registered No.B1576 and the workmen working in the 1st respondent-Corporation in

the State of A.P. are the members of the Union. Out of 176 workers, 100 workers are the members of the said Union. The General Body meeting of the Union was held on 6-12-2003 at Hyderabad and the deponent was elected as the President of the Union and the 3rd respondent was elected as the Secretary of the Union. There is another Trade Union affiliated to C.I.T.U. and an election was held by a secret ballot for electing two representatives of the workmen in the Corporation. It is also averred that the two Trade Unions, the petitioner-Union has got 54% of workers and no Trade Union has got 60% or more than 60% of the workers and therefore the petitioner-Union and the other Trade Union have to send one representative from each in order to Unions to participate in all the Bipartite discussions with the management of the 1st respondent-Corporation. The 3rd respondent, without discussing in the Executive Committee sent his name while giving notice to the President of the Union with false allegations. The President sent reply to the Secretary and there was no response and therefore, they called for General Body meeting which was held on 9-5-2004 at Vijayawada. The proceedings of the General Body meeting had been placed before the Court. The 3rd respondent did not

attend the meeting. The General Body gave notice to the 3rd respondent to attend the meeting scheduled to be held on 6-6-2004 at Vijayawada for explaining about the action of nominating himself and also the notice given to the President with false allegations. The 3rd respondent did not attend the meeting on 6-6-2004 at Vijayawada and no explanation was sent to the meeting. The conduct of the 3rd respondent was discussed in the General Body and a unanimous opinion was expressed that the conduct of the 3rd respondent was not congenial to the Trade Union and on the other hand it is adverse to the interest of the Union and it would cause loss if he continued as Secretary. Therefore, a unanimous resolution was passed expelling the 3rd respondent from the post obligation General Secretary with effect from 6-6-2004. Further, the General Body meeting held on 5-5-2004 elected Sri D.Shyam Rao as the General Secretary and it was also decided to send Sri Md.Davoodali, Vice-President of the Union to represent in the Power Grid National Bipartite Committee. It is also stated that they sent the proceedings to the 1st respondent. The 3rd respondent with a mala fide intention sent another representation. The 1st respondent sought clarification

from the 2nd respondent as to whom the 1st respondent had to recognize. Further, the 2nd respondent should have decided the matter either on the basis of records or should have conducted General Body meeting of the Union through any of the officials. In stead of performing the public and statutory duty, he expressed his inability to clarify the issue. The 1st respondent should have verified the records himself and decide the issue. It is also stated that the very object of the Trade Union is to maintain harmonious atmosphere between the management and the workers and it is necessary in the interest of maintaining harmonious atmosphere to take necessary and incidental action either by the 1st respondent or the 2nd respondent. In stead of taking positive action, the 1st respondent did not allow the representative of the petitioner-Union to participate in the Bipartite meetings. It is further stated that so far as one meeting was held without allowing the representative of the petitioner-Union. Another meeting was scheduled to be held in December 2004. Besides the above meeting, the grievances of the workers are to be represented by the petitioner-Union and the 1st respondent is not allowing the representative of the petitioner-Union to represent the grievances of the workmen. It is also further stated that

the Bipartite meetings are at three levels viz., National level, Regional level and Station level. The 1st respondent is not allowing the respondents of the petitioner-Union in these Bipartite meetings. There is no other alternative and hence the writ petitioner approached this Court by filing the present Writ Petition. Certain grounds also had been specifically averred in the affidavit filed in support of the Writ Petition.

8. The 1st respondent filed counter affidavit stating that the Power Grid Employees Union is a registered Trade Union bearing Registration No.B-1576 operating in the Southern Region Transmission System-I. The said Trade Union had polled 86 (53.09%) of votes out of the total 170 votes polled in the elections held on 21-1-2004 for membership of the Power Grid National Bipartite Committee (PNBC), a Bipartite Forum of Power Grid Management and Unions to negotiate various issues concerning the workers including wages. As per the Memorandum of Agreement between the Management and the Unions, this Union had secured one seat for the PNBC. On 1-1-2004, a communication was received from the 3rd respondent stating that Sri E.Tatarao was elected as the President of the petitioner-Union and he was elected as the General Secretary in the elections held on

6-12-2003 at the General Body meeting of the Union. Subsequently, a letter dated 22-3-2004 was received from the 3rd respondent nominating himself as the representative of the petitioner-Union in PNBC. Subsequently, another letter dated 6-6-2004 jointly signed by Sri E.Tatarao and D.Shamrao in the capacity of President and General Secretary respectively of the Union was received by the 1st respondent stating that the 3rd respondent was expelled from the post of General Secretary and that Md. Dawood Ali, Vice President was nominated as representative of the petitioner and Ch.Ranadheer Rao, Organising Secretary was the alternative representative in the PNBC. The 3rd respondent also informed the 1st respondent that E.Tatarao was expelled from the post of President in a General Body Meeting held on 6-6-2004 at Secunderabad. The 1st respondent therefore addressed a letter dated 20-7-2004 to the Registrar of Trade Unions and Commissioner of Labour, Labour Department, Government of Andhra Pradesh, to examine and consider issuing appropriate directions as to which of the conflicting communications (letter dated 22-3-2004 or letter dated 6-6-2004) regarding the nomination is to be accepted by the 1st respondent for inclusion in the PNBC. Vide letter

dated 17-9-2004, the Joint Commissioner of Labour-III informed that constitution of the PNBC is a Bilateral issue and his office cannot give any direction in the matter as it is outside the purview of the Registrar. It is further stated that the 1st respondent has no mechanism to decide the truth or otherwise of the alleged expulsion of the 3rd respondent by the group lead by E.Tatarao or the alleged expulsion of E.Tatarao by the group lead by the 3rd respondent. Only a competent Civil Court can decide this issue as it is a matter requiring enquiry and evidence. It is further stated that in so far as the recognition of the petitioner-Union is concerned, there is no dispute because of the facts aforesaid. As regards the recognition of the Executive Committee where Sri E.Tatarao is the President, there is difficulty in view of his alleged expulsion by the group lead by the 3rd respondent and the 3rd respondent's alleged expulsion by the group lead by E.Tatarao.

9. In the counter affidavit filed by the 3rd respondent, it is averred that the Power Grid National Bipartite Committee (PNBC) meeting was held on 4th and 5th of October 2004. During the said meeting, it was decided to conduct elections-2004. While so, the 3rd

respondent was pleased to issue a Circular dated 15-11-2003 in respect to finalizing final voters list and to establishing the polling booth and the date of election was fixed on 20-7-2004. It is also further stated that the elections were conducted as per the memorandum of agreement 2003 (re-constitution of Power Grid National Bipartite Committee (PNBC)-2003. As per the procedure, the election notification was issued by the Chief Election Officer and accordingly the elections were conducted and finally election results were declared by the order dated 4-2-2004 wherein the 3rd respondent's Power Grid Employees Union won the elections by 53.9% of votes. Further, the management was pleased to issue a letter dated 10-3-2004 to nominate workmen to represent in re-constitution of Power Grid National Bipartite Committee (PNBC) on behalf of the majority Union. The majority Union will nominate a person from its Union to represent on its behalf in the re-constituted Power Grid National Bipartite Committee (PNBC). The 3rd respondent is the General Secretary of the Power Grid Employees Union since 22 years. The employees Union in its meeting dated 6-12-2003 selected the General Secretary i.e., the 3rd respondent, to participate in the re-constitution conducted by PNBC India Limited. The powers of

General Secretary were enumerated for the said meeting and the same are as hereunder :

i) As the representation of Trade Unions in Power Grid is based under the provisions of consultative forum, Union is expected to exercise move discipline and maintain diplomacy with the organization;

ii) The process of consultation (PNBC) will be initiated by filing nomination to contest elections for PNBC through secret ballot. The General Secretary of Union will submit nomination. On succession in election, for re-constitution of PNBC conducted by PGC of India Limited, the General Secretary Coordinates the representation from Union.

iii) Since maintaining discipline is utmost concern, General Secretary of the Union will act as disciplinary authority, as deemed necessary.

iv) For the purpose of attaining decorum in Union no union executives/members may resort to any collection of money for any purpose other than monthly subscription from members only;

v) All the Union General Body meetings will be coordinated by the General Secretary at the registered office address of the Union or at any place notified by the General Secretary only;

vi) All the monthly subscription will be coordinated by Treasurer who will send the proceeds to General Secretary for deciding the mode of expenditure on various occasions as required. Consented by all members attended for this rules.

It is also averred that the petitioner also signed in the said meeting which is placed at sl.no.9, given consent for selecting the 3rd respondent for representing in PNBC and therefore it is very clear that the 3rd respondent was authorised to represent PNBC meeting on behalf of the Power Grid Employees Union majority Union from the SRTS-I constituency. Further, in pursuance of the proceedings dated 10-3-2004, the 3rd respondent's name was communicated to the management vide letter dated 23-3-2004 and the same is accepted by the respondents. Therefore there is no hurdle in any manner either to the management or to the members of the employees Union for electing the 3rd respondent as General Secretary and also in respect to nominating him in PNBC. Further it is stated that the Power Grid Employees Union again conducted general body meeting and in the said meeting, the petitioner Mr.Tata Rao was removed from the post of President for illegal activities and the same had been informed to the management. Therefore the present dispute is a personal dispute between the petitioner and the 3rd respondent and the said dispute cannot be agitated before this Court under Article 226 of the Constitution of India. Hence, specific stand had been taken that the Writ Petition is not maintainable and further

other averments relating to Shyam Rao being elected as the General Secretary of the Union on 6-6-2004 and Davvodali being elected as Vice President of the Union also had been denied.

10. The 3rd respondent in W.P.No.21068/2004 filed W.P.No.18224/2005 praying for a Writ of Mandamus declaring the action of the respondents in not calling and not informing to the petitioner in conducting Power Grid National Bipartite Committee meeting as the same is wholly illegal, arbitrary and unjust and consequently direct the respondents to inform about the Power Grid National Bipartite Committee meetings to the petitioner and permit the petitioner to attend the Power Grid National Bipartite Committee meetings which are being conducted by the respondent during his tenure of three years and to pass such other suitable orders. It is stated that the petitioner is the General Secretary of the Power Grid Employees Union which is a registered Trade Union under Trade Union Act with registered No.B.1576. Further it is stated that there are about 178 employees in total working in various capacities. There are about 12 branches in Andhra Pradesh. The respondent is a Central Government organization which transmits power and will form a Committee called Power Grid National Bipartite

Committee (PNBC) for every three years. The Committee comprises of elected leaders from all over the country. SRTS-I is a nominee elected as PNBC member from Southern region or constituency which includes complete Andhra Pradesh and part of Karnataka. Accordingly, there are about 11 divisions from all over the country including the 2nd respondent SRTS-I (Southern Region Transmission System-I). It is further stated that a memorandum of agreement was entered between the workers Union and the management for reconstitution of PNBC for the period with effect from 2004 to 2007 and this memorandum of agreement is in respect of election for PNBC by way of secret ballot. The elected candidates will be the member for PNBC. This Committee will be for a period of three years from the date of declaration of election. As per Chapter-II, there are about 12 Constituencies and the petitioner falls under SRTS-I. Further, the petitioner was elected by the petitioner-Union to participate for PNBC in the elections conducted through secret ballot conducted on 22-1-2004. The petitioner-Union secured majority votes in PNBC 2004. The petitioner-Union issued letter dated 23-3-2004 nominating Mr.P.Narasinga Rao i.e., the petitioner herein, as the General Secretary for the petitioner-Union and

representing the Union in SRTS-I in PNBC and the same was accepted by the respondents vide letter dated 3-1-2005. Further it is stated that it had been concluded and admitted fact that the petitioner being General Secretary of the Power Grid Employees Union was elected in the elections conducted by the respondents for representing in SRTS-I in PNBC meeting. There are about 12 members including the petitioner who comprise the Committee namely, PNBC from all over India. The intention of the formation of the said Committee is that the Committee will act as a catalyst between the employees of the Power Grid and the respondents organization. Any agreement or any understanding between the respondents and the PNBC will be binding on the employees of the respondents through out India. This PNBC will act as co-ordinate Committee between the employees and the respondents-organisation. Further, the petitioner is one of the member of the Committee who was elected and selected by due process of elections conducted by the management from the Southern Region. It is further stated that after declaration of elections in the month of June 2004, the Government had conducted five meetings at Head Office, Delhi. The petitioner had not received any invitation from the respondents calling him to participate in the PNBC

meetings. On the other hand, the respondents invited all the members of the Committee from all over the country who were elected along with the petitioner. The said action of the respondents is illegal, arbitrary and unjust. Further, the petitioner had been elected for participating in the PNBC by the employees of the complete Andhra Pradesh and part of Karnataka, but to the unfortunately there is no representative from the Power Grid Employees Union throughout Andhra Pradesh and part of Karnataka. The representative is being denied by the respondents without any reasons. In view of the said illegal action of the respondents, the petitioner made representation to the respondents on 26-2-2005 to invite the petitioner or to inform the petitioner when the meetings are being conducted. But, for the reasons best known to the 1st respondent the invitations respondents issued through out India except to the petitioner who is elected from Andhra Pradesh. The said action of the respondents is illegal and discriminative in nature. In spite of repeated requests made by the petitioner, no action had been initiated. Aggrieved by the same, the petitioner filed W.P.No.9475/2005 before this Court and this Court was pleased to dispose of the Writ Petition with a direction to dispose of the representation made by the petitioner, but

to the reasons best known to the respondents, no action had been initiated till date. Further, it is stated that the petitioner was elected in 2004 and till date the petitioner had not attended a single meeting of PNBC. The respondents clearly denied representative of Andhra Pradesh and Part of Karnataka for participating in the PNBC meeting for the period of nearly one year two months. In such circumstances, the writ petitioner approached this Court under Article 226 of the Constitution of India praying the relief already specified supra.

11. W.P.M.P.No.1863/2006 is filed in W.P.No.18224/2005 praying to implead the petitioner-Union represented by D.Shyam Rao, as 3rd respondent in W.P.No.18224/2005 and also in the miscellaneous petitions. In view of the facts and circumstances, the said implead application is hereby ordered.

12. In the counter affidavits filed by respondents 1 and 2 it is averred that the Power Grid Corporation of India Limited had been notified as Central Transmission Utility under the Electricity Act, 2003 and is discharging various functions under the Act. The Corporation is having seven Regional offices in different places of the country and the Southern Region Transmission System-I (SRTS-I)

Headquarters is situate in Secunderabad and is under the administrative control of the Executive Director. It is further stated that the issue in the present case is whether the petitioner who is the so-called General Secretary of the Power Grid Employees Union can be deputed as a representative of the said Union in the PNBC and other Bipartite meetings in all levels between the management and the workmen. The representation of the Power Grid Employees Union of the petitioner had been kept in abeyance in the All India Level Powergrid National Bipartite Committee (PNBC) and other Bipartite Committees in all levels in view of the counter claims made by the two leaders of the same Union for representation. As per the agreement reached between the management and the Unions on all India basis, Unions securing 60% of the votes and more will represent all the seats (two in the case of SRTS-I) of the Region and 15% of the votes and more has to be secured by the Union for representation. As per the said agreement, election was conducted through secret ballot. Power Grid Employees Union of the petitioner polled 53.09% of votes and another union Power Grid Workers Union polled 46.91%. Thus, both the Unions has got one seat to represent SRTS-I. Further it is stated that the Power Grid Employees Union, because of the counter claims made

by the two leaders of the same Union, was informed that the representation of Power Grid Employees Union in all India level PNBC meeting and other Bipartite meetings in all levels cannot be considered till the resolution of their counter claims. Since the counter claims made by the Union is their internal matter, Power Grid was not in a position to act and invite them for the All India level PNBC meeting and other Bipartite meetings in all levels. However, it is not out of place to mention that interest of workmen of SRTS-1 is not ignored as Power Grid Workers Union continue to represent the workmen of SRTS-1 in PNBC and other Bipartite meetings in all levels. In fact, having been unable to act on the counter claims made by the Union, the matter was referred to the Registrar of the Trade Unions vide letter dated 17-9-2004 by the respondents and he declined to give any directions as the same was not under the purview of the Registrar. However, the other leader of the Power Grid Employees Union, Sri E.Tata Rao, in the capacity of President of the Union had approached this Court in W.P.No.21068/2004. As the matter is sub judice, it is not correct on the part of the petitioner Sri P.Narsinga Rao, to make the present Writ Petition and the Writ Petition is not maintainable on the ground of principle of estoppel. Further, it is stated

that it is not out of place to mention that it is well settled in the court that any such type of counter claims and dispute between two faction groups of the Union, that is, intra-Union rivalry, the aggrieved party who disputes the validity has to approach the Civil Court as held in *Ram Das Tigga Vs. State of Jharkhand and another (2004 (102) FLR 114)* and *ONGC Workmen Associatin Vs. State of West Bengal and others (1998(2) LLJ 335)* and the same had been pointed out by Power Grid in the counter affidavit filed in W.P.No.21068/2004 pending for final hearing. Further, para-wise reply to the writ affidavit is given as hereunder.

It is stated that the contents of para No.1 of the petition are matters of record. With reference to para 2 and 3 of the petition, it is stated that the facts of the matter had not been represented properly by the petitioner. The decision to conduct elections for reconstitution of PNBC through secret ballot was taken in the PNBC meeting held on 18-10-2003 during which a memorandum of agreement dated 18-10-2003 was entered between the workers Union and the management for reconstitution of PNBC for a period of three years. As per the agreement dated 18-10-2003 reached between the management and the Unions on all India basis, Union getting 60% of votes and more will be representing all the seats of the Region and for representing the Region 15% votes and more of the

Region has to be secured by any Union. In the case of SRTS-1 (as on date) 139 workmen, working in different substations and offices situate in Andhra Pradesh and parts of Karnataka and election was conducted on 20-1-2004. The Power Grid Employees Union (Registered No.B-1576) and Power Grid Workers Union (Registered No.H-17) had participated in the elections. The Power Grid Employees Union polled 53.09% of votes and Power Grid Workers Union polled 46.91% of votes, out of total 170 votes cast in the above said elections. As per the agreement reached on all India basis, both the Power Grid Workers Union and Power Grid Employees Union are getting one seat to represent SRTS-I. SRTS-I is being represented in PNBC and other Bipartite meetings by Power Grid Workers Union. Further, it is stated that the contents of paras 4 and 5 of the petition are not correct. A communication dated 1-1-2004 was received from Sri P.Narsinga Rao in the capacity of General Secretary of Power Grid Employees Union, stating, inter alia, that Sri E.Tata Rao, was elected as the President and Sri P.Narasinha Rao, as General Secretary of the Union. Since to the petitioner-Union had secured less than 60% votes of the Region, they were to represent one seat of SRTS-1 and seeking the nomination of the representative

of the Union, the management issued a letter dated 10-3-2004. The letter dated 22-3-2004 was received from the petitioner nominating himself as representative of the Power Grid Employees Union in all –India level Power Grid National Bipartite Committee (PNBC) meeting. The same was acknowledged vide letter dated 3-5-2004 and not by letter dated 3-1-2005 as mentioned by the petitioner. Later, the letter dated 6-6-2004 jointly signed by Sri E.Tata Rao and Sri D.Sham Rao in the capacity of President and General Secretary of the Power Grid Employees Union informed that Sri P.Narsinga Rao was expelled from the post of General Secretary and that Md.Dawood Ali, Vice- President was nominated as representative of the Union and Sri Ch.Randheer Rao, Organising Secretary as the alternative representative in the PNBC. Similarly, a letter has also been received from Sri P.Narasinga Rao in the capacity of General Secretary and that Sri E.Tata Rao was expelled from the post of President of Union in its General Body Meeting held on 6-6-2004. In view of the aforesaid counter claims by the two leaders of the same Union, the matter was referred by the respondents to the Registrar of Trade Unions, Government of Andhra Pradesh, Hyderabad by letter dated 20-7-2004 with a request to examine the issues. Pending resolution of the issue, unable to act on the

counter claims of the leaders, the respondents intimated the above two rival groups by letter dated 20-7-2004 that till a direction is received from the Registrar of Trade Unions, the nomination of representative of Power Grid Employees Union in PNBC and other Bipartite meetings in all levels, had been kept in abeyance. However, the Registrar of Trade Unions by their letter dated 17-9-2004 declined to give any directions and informed that the internal matter is not in his purview. Subsequently, Sri E.Tata Rao in the capacity of President of Power Grid Employees Union filed W.P.No.21068/2004 praying to allow them to represent in the bipartite meetings in all levels. A counter was filed by the management bringing to the notice of this Court the aforesaid facts and prayed to direct the petitioner to approach the Civil Court for the resolution of the issue and then only the management would nominate the successful party to the PNBC. No interim orders were granted in favour of Sri E.Tata Rao and W.P.No.21068/2004 is pending for final hearing on 5-12-2005. Further it is stated with reference to para 6 of the petition, it is stated that the petitioner is not the sole representative of the Power Grid Employees Union. In view of the counter claims made by the two leaders of the same Union, the management is unable to act and the

representation of the Union in all-India level PNBC meeting and other Bipartite meetings in all levels had been kept in abeyance. Hence, the act of the management cannot be described as illegal, arbitrary or unjust as claimed by the petitioner. Further, with reference to para-7 of the petition, it is stated that the petitioner is surprisingly claiming innocence of the whole issue. In fact, W.P.No.21068/2004 filed by other leader of the same Union is pending for final hearing on 5-12-2005 in this Court wherein the petitioner Sri P.Narsinga Rao is also a party and as such the matter is sub judice. Further, the petitioner had also made an application dated 29-6-2005 in W.P.No.21068/2004 seeking the same relief as prayed in the present Writ Petition, which is sub judice and hence it is prayed that the proceedings in the present Writ Petition be stayed on the principle of sub judice. Also, the question of inviting the petitioner to participate in the PNBC Meeting does not arise till the said issue is adjudicated either in W.P.No.21068/2004 or in a civil suit to be filed by the petitioner or Sri E.Tata Rao. Further, it is denied that the action of the respondents is illegal and discriminative in nature. It is admitted that the petitioner filed W.P.No.9475/2005 in this Court seeking a direction to direct the Corporation to permit him to participate in the PNBC meeting and this Court was pleased to pass the

following order on 26-4-2005 at the admission state : *"No positive direction is being granted to the respondents directing them to give permission to the petitioner to participate in the PNBC because it is the respondents to take appropriate decision in accordance with rules and regulations. Therefore, without going into the merits of the case, the Writ Petition is being disposed of, directing the respondents to take appropriate decision on the representation of the petitioner dated 26-2-2005 and pass necessary orders thereon, within a period of one week from the date of receipt of a copy of this order".* It is further stated, in pursuance of the aforesaid orders of this Court, the petitioner was informed by letter dated 11-5-2005 that pending final disposal of W.P.No.21068/2004, the respondents shall not be in a position to amend the PNBC reconstitution order dated 31-8-2004. The letter was received by the petitioner through dak register on 12-5-2005 and the said letter was also sent to the petitioner by RPAD but the cover was received back by the Corporation with endorsement "NOT CLAIMED, RETURNED TO SENDER". The said postal cover is available with the Corporation and the same will be produced before the Court at the time of hearing of the case. It is further stated that the petitioner suppressed the

fact of communication sent to him and by suppressing the fact that an appropriate order was passed by the competent authority in pursuance of the order of this Court, the petitioner wanted to invoke the jurisdiction of this Court. The petitioner's approach is not bona fide but mala fide and therefore the Writ Petition is liable to be dismissed. It is further stated that the contents of paras 8, 9 and 10 are not correct as stated by the petitioner. Till the counter claims made by the petitioner and the other leader of the same Union are resolved, the Power Grid will not be in a position to invite the representative of the Power Grid Employees Union in all-India level PNBC meeting and other Bipartite meetings at all levels. In fact, the other Union i.e., Power Grid Workers Union continued to represent for the workmen of SRTS-1 in PNBC meeting and other Bipartite meetings at all levels and taking care the interest of the workmen. Further it is stated that it is not correct on the part of the petitioner to state that he was not having any other remedy. In fact, the petition of the other leader of the same Union is pending for hearing in this Court. It is well settled that dispute between two faction groups of the Union as to who are the elected office bearers of the Unions can be decided only by a suit in the Civil Court (*Ram Das Tigga Vs. State of Jarkhand and another 2004(102) FLR 114)* and *ONGC Workmen*

Association Vs. State of West Bengal and others 1998(2) LLJ 335). The petitioner had suppressed the material facts and approached this Court by making or splitting the cause of action to project a new issue and the petitioner invoked the extraordinary jurisdiction of this Court. Further, the petitioner is having an efficacious alternative remedy by approaching a Civil Court and hence the Writ Petition is not maintainable. The petitioner herein being a respondent in W.P.No.21068/2004 filed by Sri E.Tata Rao, is at liberty to ventilate his grievance, if any, in that Writ Petition and he cannot maintain the present Writ Petition. There are no bona fides in the Writ Petition and it is only an abuse of the process of the law. Hence, the Writ Petition be dismissed with exemplary costs.

13. These are the respective stands taken by the parties in the pleadings.

14. The correspondence, certain proceedings and representations also had been placed before this Court. The main grievance of the writ petitioner in W.P.No.21068/2004 is that the 1st respondent should have verified and should have seen that the petitioner-Union submitted a list of members of the Union who endorsed the resolution of expelling the 3rd respondent and the list consists of 95 members of the Union and the

total members of the Union being only 100. Further, the grievance is that the 2nd respondent should have directed its officials to conduct the General Body Meeting and decide the representative character of the petitioner-Union. The further grievance is that the action of the 1st respondent in not allowing the representative of the petitioner-Union to participate in the Bipartite meetings is quite unjust, unfair and against the object of the relevant Labour Legislations.

15. It is brought to the notice of this Court that the period of three years already had lapsed and the elected representatives are being continued under the guise of extended period. The relief prayed for in W.P.No.18224/2005 being clear, the same need not be further elaborated since what had been prayed for is to permit the petitioner to attend the Power Grid National Bipartite meetings which would be conducted by the respondents 1 and 2 during his tenure of three years and to pass such other suitable orders. It is not in serious controversy that the said period already had lapsed.

16. Be that as it may, the learned Counsel representing the writ petitioner in W.P.No.21068/2004 placed strong reliance on **N.E. Railway Employees Union and others Vs. Third Addl District Judge and**

others [1] wherein the Apex Court while disposing of the S.L.P. with no order as to costs observed :

> "In this Special Leave petition notice was confined to the question as to whether the direction made by the High Court designating the General Manager, North Eastern Railway as the authority to hold elections of the North Eastern Railway Employees Union; a trade union registered under the Trade Union Act, 1926, should be substituted by the Registrar of Trade Union, Uttar Pradesh. In response to the notice the respondents have appeared and when the case was taken up, a prayer was made on behalf of respondent No.6, General Manager, North Eastern Railway for adjournment to enable him to file a counter affidavit. We decline the prayer as we do not see any necessity for any such affidavit by him.
>
> We have heard learned Counsel for the appellants as well as the contesting respondents Nos.2, 3 and 4. The Registrar of the Union is the authority charged with the duty of administering the provisions of Trade Union Act. The High Court was obviously in error in designating the General Manager, North Eastern Railway as the authority to hold election of the Trade Union. We accordingly grant Special Leave, modify the direction made by the High Court and direct instead that the election will be held under the supervision of the Registrar of Trade Union or by an officer designated by him for that purpose. The judgment of the High Court stands modified to the extent indicated."

The learned Counsel representing the 1st respondent placed strong reliance on **Ram Das Tigga Vs. State of Jharkhand and another** [2] and would maintain that the disputes relating to the validity of elections of this nature may have to be decided by a competent Civil Court and the learned Judge of Jharkhand High Court observed :

> "In this writ application the petitioner has prayed for quashing the notice issued by respondent No.2. The Registrar Trade Unions-cum-Labour Commissioner, Government of Jharkhand, Ranchi calling upon the petitioner to submit papers in connection with election of the office bearer and restraining him from adjudicating upon dispute relating to office bearers of trade unions.
>
> The petitioner's case is that he is a member of registered trade union namely Research and Development Center and Steel Authority of India Ltd. employees union. According to bye-laws a general election for the office bearers of the Union was held after following the procedures and the result of the election was announced by the Returning Officer on 20-10-2003 by issuance of a circular. In the said election altogether 21 persons were elected and petitioner is one of them. There was no objection dissent from any quarter nor from the management or Labour Department. However, two faction started claiming to be the real office bearers and approach the Registrar trade unions for deciding the dispute as to who is the real office bearers. The Registrar, therefore, issued the

impugned notice directing the two factions to produce documents.

Mr.Satish Bakshi, learned Counsel appearing for the petitioner assailed the impugned notice and the action of the Registrar as absolutely illegal and wholly without jurisdiction. Learned Counsel submitted that in the event of intra-union dispute relating the office bearers of any union the jurisdiction lies with the Civil Court and the Registrar has got no jurisdiction to adjudicate the dispute between the two rival unions. Learned Counsel put reliance on the decision of the Supreme Court in the case of *ONGC Workmen's Association Vs. State of West Bengal and others (1988(2) LLJ 335)* and a Bench decision of this Court in the case of *Ram Chandra Singh and another Vs. State of Bihar and others (2001(3) J.C.R. 183 (Jhr).*

It is well settled that the dispute between the two faction groups of the union as to who are the elected office bearers of the unions can be decided only by a suit in the Court of competent jurisdiction and such dispute cannot be adjudicated by the Registrar of trade unions. In the instant case from perusal of the impugned notice issued by the Registrar trade unions it appears that she called upon the General Secretary of the union to participate in the meeting fixed by her for deciding the dispute with respect to the election of the trade union. In my opinion therefore, the impugned notice issued by the Registrar for the purpose of deciding the validity of the election of the union is wholly without jurisdiction".

17. This is a dispute concerned with a Trade Union; not between the rival Trade Unions or it is not a dispute between a Trade Union and the management. While observing the democratic principles and also keeping in view the welfare of the workers as such, the concerned Trade Union may have to decide unto itself such disputes. The dispute in question is concerned with the internal disputes of a Trade Union and nothing beyond thereto. Further, these are all factual issues which cannot be effectively gone into by a writ Court. In the light of the facts and circumstances and also further in the light of the material placed before this Court, including the chronology of events, this Court is satisfied that the reliefs prayed for in both the Writ Petitions cannot be granted. In fact, the relief prayed for in the latter Writ Petition, virtually became infructuous. In the light of the same, let the parties approach the competent Civil Court to resolve their disputes in accordance with Law. Except making this observation, no further relief can be granted in these Writ Petitions.

18. The Writ Petitions are accordingly disposed of. No costs.

Justice P.S.Narayana

Date : 3-12-2007

L.R. copy to be marked : YES / NO

AM

---

[1] **S.L.P.No.15345/87, dated 9-3-1988**

[2] **2004(102) F.L.R. 114**